

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-v-

Case No. 10-20123

D-1 DAVID BRIAN STONE, a.k.a. "RD,"  
a.k.a. "Joe Stonewall," a.k.a.  
"Captain Hutaree,"

D-2 DAVID BRIAN STONE, JR., a.k.a.  
"Junior,"

D-3 JOSHUA MATTHEW STONE, a.k.a. "Josh,"  
D-4 TINA MAE STONE,

D-5 JOSHUA JOHN CLOUGH, a.k.a. "Azzurlin,"  
a.k.a. "Az," a.k.a. "Mouse," a.k.a.  
"Jason Z. Charles,"

D-6 MICHAEL DAVID MEEKS, a.k.a. "Mikey,"

D-7 THOMAS WILLIAM PIATEK,

D-8 KRISTOPHER T. SICKLES, a.k.a.  
"Pale Horse,"

D-9 JACOB J. WARD, a.k.a. "Jake,"  
a.k.a. "Nate," a.k.a. "Guhighllo,"

Defendants./

**DETENTION HEARINGS**

**BEFORE HON. MAGISTRATE JUDGE DONALD A. SCHEER**

United States Magistrate Judge  
Theodore Levin U.S. Courthouse  
231 West Lafayette  
Detroit, Michigan 48226

**(Thursday, April 1, 2010)**

APPEARANCES: RONALD W. WATERSTREET, ESQUIRE  
JOSEPH L. FALVEY, ESQUIRE  
Appearing on behalf of the  
Government.

WILLIAM W. SWOR, ESQUIRE  
Appearing on behalf of Defendant  
David Brian Stone.

1 RICHARD M. HELFRICK, ESQUIRE  
2 Appearing on behalf of Defendant  
David Brian Stone, Jr.

3 JAMES C. THOMAS, ESQUIRE  
4 Appearing on behalf of Defendant  
Joshua Matthew Stone.

5 MICHAEL A. RATAJ, ESQUIRE  
6 Appearing on behalf of Defendant Tina  
Mae Stone.

7 RANDALL C. ROBERTS, ESQUIRE  
8 Appearing on behalf of Defendant  
Joshua John Clough.

9 HENRY M. SCHARG, ESQUIRE  
10 Appearing on behalf of Defendant  
Kristopher T. Sickles.

11 CHRISTOPHER N. SEIKALY, ESQUIRE  
12 Appearing on behalf of Defendant  
Jacob J. Ward.

13 MARK A. SATAWA, ESQUIRE  
14 LISA B. KIRSCH SATAWA, ESQUIRE  
15 Appearing on behalf of Defendant  
David Meeks.

16 COURT RECORDER: LOLITA GRANGER

17 TRANSCRIBED BY: MARIE J. METCALF, CVR, CM  
18 Federal Official Court Reporter  
257 U.S. Courthouse  
231 W. Lafayette  
19 Detroit, Michigan 48226

20 *(TRANSCRIPT PRODUCED FROM DIGITAL VOICE RECORDING;*  
21 *TRANSCRIBER NOT PRESENT AT PROCEEDINGS)*  
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Detroit, Michigan

Thursday, April 1, 2010

At about 1:22 p.m.

\* \* \*

DEPUTY COURT CLERK: The Court calls case number 10-20123, United States of America versus David Stone, among others.

THE COURT: Appearances?

MR. FALVEY: Good afternoon, Your Honor. Joseph Falvey and Ronald Waterstreet appearing on behalf of the United States.

THE COURT: Thank you.

Defense appearances?

For David Brian Stone, Mr. Thomas?

MR. THOMAS: Well, Your Honor, I'm for Joshua Stone. James Thomas on behalf of Mr. Joshua Stone.

THE COURT: I beg your pardon.

Mr. Swor is not present?

MR. THOMAS: It appears not.

THE COURT: For David Brian Stone, Jr., Mr. Helfrick is present.

For Tina Mae Stone, Mr. Rataj is present.

For John Clough, Mr. Roberts is present.

For David -- Michael David Meeks, Mr. and

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1 Ms. Satawa are present.

2 Mr. Scharg is present for Defendant  
3 Sickles.

4 Mr. Seikaly is present for Defendant Ward.

5 I asked that the defendants and their  
6 counsel be present today at this time so that the Court  
7 could address the objections to the government's  
8 proceeding by proffer.

9 I have received and reviewed Mr. Thomas's  
10 brief. I have received Mr. Rataj's written concurrence.  
11 Is it safe to assume, counsel, that all defendants concur  
12 in the brief?

13 MS. SATAWA: On behalf of Mr. Meeks, we  
14 would concur, Your Honor.

15 MR. ROBERTS: On behalf of Mr. Clough, we  
16 would, Your Honor.

17 MR. SCHARG: On behalf of Mr. Sickles, we  
18 concur.

19 MR. HELFRICK: On behalf of David Stone,  
20 Jr., yes.

21 MR. SEIKALY: Also as to Mr. Ward, Judge.  
22 Thank you.

23 THE COURT: Thank you.

24 The Court will treat the motion as joined  
25 by all defendants. I have reviewed the brief as well as

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1 the response brief filed by the government. And I have  
2 reviewed case authority cited by both sides, in  
3 particular the *Windsor* case out of the Ninth Circuit and  
4 the Sixth Circuit unpublished opinion unanimously  
5 concurring with the ruling in the *Windsor* case.

6 That ruling was that the government may  
7 proceed in a detention hearing by way of a proffer, that  
8 it is not required to present a witness and that the  
9 defendant suffers no due process violation by reason of  
10 the inability to cross-examine.

11 Based on those authorities, I will  
12 overrule the objection.

13 Are we ready to proceed as to Michael  
14 David Meeks?

15 MR. FALVEY: We are, Your Honor.

16 THE COURT: You may proceed.

17 First of all, Ms. Satawa have you received  
18 a copy of the pretrial services report and  
19 recommendation?

20 MS. SATAWA: I have, Your Honor.

21 THE COURT: Thank you. You may proceed.

22 MR. FALVEY: Good afternoon, again, Your  
23 Honor. Joseph Falvey appearing on behalf of the United  
24 States.

25 As with the other defendants, we've

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1 prepared a number of talking points for the Court that  
2 we'll be relying upon. The defense counsel has been  
3 provided a copy of those. And I'll hand a copy for the  
4 Judge forward at this time.

5 THE COURT: Thank you.

6 MR. FALVEY: Your Honor, based on the  
7 proffer by co-counsel, AUSA Waterstreet, it's clear that  
8 Mr. Meeks was present for the following Hutaree meetings  
9 and training. He was present on October 18th, 2008,  
10 February 28th, 2009, the 27th and 28th of March 2009, the  
11 13th of June 2009, which was the IED demonstration day,  
12 the 25th of July 2009, the 22nd of August 2009, the 7th  
13 of November 2009, the 12th of December 2009, the 9th of  
14 January 2010, which was the day defendant one, David  
15 Brian Stone revealed the plan for the covert operation in  
16 April. He returned after that on the 6th of February  
17 2010 for the Kentucky summit trip. And again, for the  
18 February 20th, 2010 training.

19 Meeks is a long-time member of Hutaree,  
20 Your Honor. He is also an ex-marine and is referred to  
21 by David Brian Stone as his heavy gunner.

22 He has not lived at his driver's license  
23 address for over five years, yet has not sought to change  
24 that address with the State of Michigan.

25 The United States Postal Service lists his

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1 true address as vacant.

2 He, like the others, has demonstrated  
3 survivalist training and a survivalist mentality. He is  
4 one of the trusted circle of David Brian Stone, most  
5 notably evidenced by his participation in the Kentucky  
6 summit trip.

7 During the June 13th, 2009 training, which  
8 again was that day they were exploding IEDs, trip-wire  
9 command detonated, et cetera, he suggested blowing up a  
10 bridge across the River Raisin when the time came, when  
11 the enemy came.

12 And also at that same day, after receiving  
13 that training, after making that statement, in discussing  
14 the alleged release of a pedophile down in Florida, said,  
15 "We got to start over man. We got to get rid of the  
16 judicial system, everybody. They need to die."

17 He discussed capping a member of law  
18 enforcement and seizing that person's weapons.

19 Upon hearing that Senator Edward Kennedy  
20 reportedly had a CCW permit, he stated, "They think  
21 they're different." "They" referring, it's assumed,  
22 members of Congress. "Wait until they find out that they  
23 bleed exactly the same."

24 At the August 22nd, 2009 training, he  
25 claimed to have a thousand tracer rounds for his AR-15



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1 and indicated he would be doling it out to other Hutaree  
2 members.

3 This is corroborated by the search of his  
4 residence which occurred yesterday, I believe, that  
5 recovered 16 long guns to include two AR-15s, one AK-47,  
6 an M1-A1A and another semi-automatic rifle, six gas  
7 masks, along with their accompanying box of cartridges,  
8 filters, two cases of MREs, thousands of rounds of  
9 ammunition, not yet counted, stockpiles in the hundreds  
10 of canned food, a binder of self-defense tactics,  
11 including how to disarm knives, disarm gunmen and  
12 improvise munitions.

13 Also found were his Hutaree clothing, and  
14 patches, and a plaque, a small plaque with a piece of  
15 barbed wire on it that indicated "Remember Waco."

16 On the 12th of December 2009, David Brian  
17 Stone and Tina Stone's wedding day, in a conversation  
18 with the undercover agent, he produced the document which  
19 was described by Joshua Clough as a ready-made hit list.  
20 And as you'll recall, Your Honor, that list included the  
21 names of elected officials, federal judges and other  
22 leaders.

23 During the February 20th, 2010 training,  
24 after hearing about the planned operation in April after  
25 the Kentucky road trip, when he heard the -- David Brian

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1 Stone's manifesto, he indicated -- and after a discussion  
2 of taking on law enforcement and potential suicide, he  
3 indicated his desire to die in a copicide situation.

4 He's been assigned by David Brian Stone to  
5 obtain a van for that April operation and indicated the  
6 only thing that was holding him back was he had not yet  
7 saved up enough scrap in order to purchase -- to convert  
8 that scrap to cash and purchase the vehicle.

9 He's also been tasked -- or was also  
10 tasked by David Brian Stone to get component materials  
11 for the IED that David Brian Stone was seeking.

12 Your Honor, that concludes the individual  
13 information regarding Michael Brian -- I'm sorry.  
14 Michael Meeks.

15 THE COURT: Thank you.

16 Ms. Satawa, do you have evidence or  
17 proffer? Or Mr. Satawa?

18 MS. SATAWA: Being a team is great, Judge.

19 MR. SATAWA: Your Honor, as to the  
20 affirmative proffer on behalf of my client, I would like  
21 to first state that I suggest to Your Honor and this  
22 Court that despite the fact that this is charged as a  
23 conspiracy for purposes of this detention hearing, I  
24 think the Court is proceeding properly in evaluating each  
25 one of these defendants separately as it relates to the

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1 individual circumstances under the Bail Reform Act and as  
2 to whether or not my client qualifies for pretrial  
3 release under the statute, Your Honor.

4 I would first like to say, Your Honor,  
5 that even the pretrial services report, when it's  
6 examined, reads the entire way through as if it's going  
7 to recommend release. I suggest to the Court that the  
8 reason for that is, is that if this Court sort of looks  
9 at this as the scales of justice so-to-speak, Judge, the  
10 only thing on the one side is the nature of the  
11 allegations, in fact, and that is the only thing that  
12 makes this a presumption case, Judge, is the nature of  
13 the allegations.

14 So you have that on the one side and on  
15 the other side, Your Honor, you have everything else that  
16 weighs substantially in Mr. Meeks' favor. Starting with  
17 the fact, Your Honor, both the -- I submit to the Court  
18 that to argue that there is no set of conditions that  
19 would both protect the public and ensure my client's  
20 appearance in court is just frankly not true, Judge.

21 My client has lived in the State of  
22 Michigan his entire 40-year life, but for a three  
23 and-a-half to four-year tour of duty in the United States  
24 Marine Corps, where he was honorably discharged after  
25 serving in Desert Storm, an action where he got a

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1 combat-related medal, Judge.

2 He is represented in the courtroom by at  
3 last count six, seven or eight family members, Judge,  
4 including brothers, parents.

5 His one brother is a member of the State  
6 of Michigan Bar, Your Honor. His parents have stated and  
7 expressed, as noted in the pretrial services report,  
8 willingness to serve as a custodial guardian for Mr.  
9 Meeks.

10 Mr. Meeks could be ordered to be on house  
11 arrest at that home, could even be tethered if the Court  
12 felt it was necessary to protect the public, but  
13 certainly is not necessary to have -- to be incarcerated.

14 Just, my client has a job. I have a  
15 letter, Your Honor, that has been shared with the  
16 government, that indicates that his job will be -- is  
17 still waiting for him if, in fact, he is secure. He's  
18 able to be -- secure pretrial release.

19 That job is with Interactive Metals, Your  
20 Honor. He is a truck driver. He does not drive over the  
21 road, Your Honor. He does not leave the State of  
22 Michigan. He'll be confined to the Eastern District of  
23 Michigan.

24 And --

25 MR. THOMAS: Your Honor, may I interrupt?

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1 THE COURT: You may.

2 MR. THOMAS: Mr. Scharg and I are going to  
3 go upstairs. We're not necessary for this part of the  
4 proceeding. But if your clerk will let the Judge know,  
5 we'll come back down when you're ready to rule.

6 THE COURT: Very well. I will likely take  
7 these matters under advisement and enter orders either  
8 late this afternoon or tomorrow, so you will all be  
9 notified.

10 MR. THOMAS: But we've already argued.  
11 And so if you'll allow us to leave. Our clients have  
12 given us their permission to do that.

13 THE COURT: You certainly are excused.  
14 Thank you very much. You're excused.

15 MR. WATERSTREET: Your Honor, before they  
16 go, however, the government intended to, at the end of  
17 each individual proceeding, was going to seek an  
18 opportunity to argue -- argue the whole detention issue  
19 very briefly, Your Honor.

20 MR. THOMAS: I thought we had that  
21 already.

22 THE COURT: Yeah. It sounded yesterday  
23 like I heard a lot of argument.

24 MR. THOMAS: I have no further argument,  
25 Judge. I'm willing to stand on what we've already done.

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1 My client has given me permission to go and continue the  
2 trial upstairs. So I'd ask you to allow us to leave.

3 THE COURT: You are excused.

4 MR. WATERSTREET: Your Honor, will counsel  
5 also waive an opportunity to hear my comments?

6 THE COURT: That is what my understanding  
7 was.

8 MR. WATERSTREET: That is, to the extent  
9 you'll allow me to make comments.

10 THE COURT: I will -- I will hear the  
11 argument. I can not imagine that it will play a  
12 significant role in my decision after having heard the  
13 evidence and all the presentation yesterday.

14 MR. SCHARG: If we are needed, we will be  
15 taking an additional recess at 3:00.

16 THE COURT: Very well. Thank you both.

17 MR. THOMAS: Your Honor, I think I have to  
18 make a record regarding my client.

19 THE COURT: Please do.

20 MR. THOMAS: Mr. Stone, do you have any  
21 objection to me leaving for now since this matter does  
22 not relate to you at this point?

23 DEFENDANT STONE, SR.: No.

24 MR. SCHARG: And Mr. Waterstreet asked me  
25 to do the same thing. You have no objection to me --

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1                   DEFENDANT SICKLES: As long as it's --  
2                   you're not going to be needing (unintelligible).

3                   MR. SCHARG: Okay.

4                   THE COURT: Thank you both.

5                   Pardon the interruption. Mr. Satawa, you  
6                   may continue.

7                   MR. SATAWA: Quite understanding, Your  
8                   Honor. It's my understanding that brother counsel are  
9                   both in trial, so --

10                  THE COURT: That's correct.

11                  MR. SATAWA: Your Honor, again, he has  
12                  honorably served in the Marines, where he received an  
13                  honorable discharge at the rank of Corporal E4, having  
14                  been awarded various commendations which were on the  
15                  honorable discharge that has been proffered to the Court,  
16                  including a combat action ribbon and a combat decoration  
17                  which is a called a Meritorious Mast.

18                  Judge, he has attended school in the area  
19                  at Washtenaw Community College. He is certified as a  
20                  paramedic, having completed paramedic school. Again,  
21                  Judge, he's worked for the last several years. Four  
22                  interactive medals.

23                  His immediate supervisor, Matthew  
24                  Anderson, is in the courtroom, Judge, his boss, willing  
25                  to attest to the fact that he is a trusted, valuable,

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1 reliable employee, and his job will be waiting for him  
2 if, in fact, released.

3 THE COURT: I have received Mr. Anderson's  
4 letter and that would suffice.

5 MR. SATAWA: Thank you, Judge.

6 He has been working there for seven years,  
7 driving for six years. It should be noted that his  
8 driving is confined to the State of Michigan, in a  
9 two-hour radius around Adrian, the City of Adrian.

10 His parents, Eugene and Sylvia Meeks, are  
11 in the courtroom, Judge. They reside at 13531 Bemis Road  
12 in Manchester, Michigan. They have again agreed to serve  
13 as a custodian for our -- for Mr. Meeks, and will allow  
14 him to stay and live in his -- in their home.

15 Also attending, Judge, are the rest of his  
16 of family, including Greg Meeks, who lives in Ypsilanti,  
17 Michigan; Todd Meeks, who lives in Napoleon, Michigan;  
18 Douglas Meeks, again, who lives in Lansing, Michigan, and  
19 is a member of the state bar.

20 Judge, my client has zero resources to  
21 flee, which is verified in the pretrial services report,  
22 does not even own a passport, does not have any assets  
23 that would allow him to flee.

24 Judge, he has a minor criminal record from  
25 1997 consisting of a misdemeanor drunk driving arrest --



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1 conviction, excuse me, Judge. And has had a clean record  
2 in the 13 years since then.

3 Your Honor, my client, upon his arrest,  
4 waived *Miranda* and gave a statement of an hour or two to  
5 the FBI. I think -- and has been cooperative in this  
6 investigation. He assures me that he would pass a drug  
7 test.

8 Your Honor, again, and I also think that  
9 it's important to note, Judge, that by way of proffer his  
10 family can attest to the fact that my client didn't even  
11 have internet access. So some of the proofs that went to  
12 sort of the alleged flash warnings and other information  
13 that was put on the internet, communications that were  
14 relayed through the internet, my client did not even have  
15 internet access at his computer.

16 Your Honor, again, it's -- the defense is  
17 fully aware of the nature of the allegations and their  
18 seriousness. However, Judge, a presumption case does not  
19 mean a -- a final determination is to be called, you  
20 know, a non-rebuttable presumption. You know, it means  
21 that we start from a spot and then we look where it takes  
22 us from there.

23 Judge, lined up on the other side of the  
24 scale, Your Honor, of the fact of the -- the charges,  
25 which are the only thing I submit to the Court relate to

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1 my client being detained. And, Judge, I would submit,  
2 even based on the proffer given by the government this  
3 afternoon and the lengthy proffer given by Mr.  
4 Waterstreet yesterday, my client's involvement, I would  
5 submit to the Court, is in comparison to other members of  
6 the -- this conspiracy not near the top, Judge, and  
7 certainly not -- is certainly less culpable than the  
8 allegations being raised against some of the leaders of  
9 the conspiracy.

10 Judge, again, weighed against that or in  
11 contrast to that is all these other personal things that  
12 can be said that both ensure my client would appear in  
13 Court as well as protect the community.

14 Judge, I would submit to the Court that  
15 there is, in fact, a set of circumstances which would  
16 include the parents serving as a custodian, which could  
17 include house -- a house arrest, being confined to his  
18 house, except for work purposes.

19 It could even include a tether if the  
20 Court feels it's necessary, but there is certainly a set  
21 of circumstances which would ensure both the safety of  
22 the public and my client's presence at all future court  
23 proceedings.

24 Judge, this is a man who served his  
25 country honorably and has lived in this state his entire

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1 life, but for serving his country honorably. And I would  
2 ask the Court to issue that order and allow my client to  
3 be released pending the pendency of this case.

4 Judge, one other thing. I also think that  
5 it's important to note that by all accounts from the way  
6 this case has begun, this case may take longer than the  
7 average criminal case that works its way through the  
8 system.

9 I would think that the Court should be  
10 cautious to detain any client for the length of time it  
11 may take this case to proceed to trial in front of Judge  
12 Roberts as only a last resort, which is really what the  
13 Bail Reform Act said, no set of circumstances ensures the  
14 safety of the public and our client's presence.

15 And I suggest, Judge, that in a case where  
16 the case is as, shall we say, complex and complicated as  
17 this case appears to be at its inception, Judge, I think  
18 that the Court should take that warning as it is stated  
19 in the statute even more to heart.

20 Thank you.

21 THE COURT: Thank you.

22 Mr. Falvey, rebuttal?

23 MR. FALVEY: Yes, Your Honor. Just one  
24 point.

25 At the time of the defendant's arrest,

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1       shortly thereafter, a search warrant was executed at the  
2       address shown on his driver's license, which as it turns  
3       out to -- turns out to be his parents' address and his  
4       former residence. As I said, he moved out over five  
5       years ago.

6               At that time his parents indicated they  
7       did not know where he lived other than a town, a small  
8       town in Michigan, and either did not know the address or  
9       would not provide the address.

10              Thank you, Your Honor.

11              THE COURT: Thank you.

12              I will take the matter under advisement  
13       together with the others.

14              MR. SATAWA: Your Honor, may I just really  
15       briefly -- although it's been said already in response to  
16       what the government just said, I think it's important to  
17       know that it wasn't like my client was hiding in a cave  
18       or something. He had a job. He was working. And had  
19       regular steady employment during this period of time.

20              He was living in the State of Michigan,  
21       working in the State of Michigan and has an employer who  
22       is here to attest to those facts, Judge. And I think  
23       it's important the Court keeps that in mind in response  
24       to what the government just argued.

25              Thank you.

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1 THE COURT: Thank you.

2 Defendant Sickles. I beg your pardon.

3 Mr. Ward.

4 DEPUTY COURT CLERK: Ward.

5 THE COURT: Mr. Ward. I beg your pardon,

6 Mr. Seikaly.

7 You may proceed Mr. Falvey.

8 MR. FALVEY: Thank you again, Your Honor.

9 I have for you a set of talking points for Defendant  
10 Jacob Ward. The defense counsel has previously been  
11 provided those.

12 THE COURT: Thank you.

13 MR. FALVEY: Your Honor, Defendant Jacob  
14 Ward was present for the following Hutaree trainings and  
15 meetings. The 27th of September 2008, the 28th of March  
16 2009, the 13th of June 2009, the IED training day, the  
17 25th of July 2009, the 22nd of August 2009, the 7th of  
18 November 2009, the 9th of January 2009, the day the  
19 covert April exercise was discussed, and the 20th of  
20 February 2010.

21 Our review of the pretrial services report  
22 and our understanding is that defendant is unemployed and  
23 lives outside the Eastern District of Michigan.

24 Nonetheless, he travels several hours here  
25 to Michigan to train with the Michigan -- this militia

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1 group rather than one that is more local to him. He owns  
2 no real property.

3 Our understanding is that the residency he  
4 lives in is a property on which his mother carries the  
5 mortgage.

6 He usually attends the training with Kris  
7 Sickles. However, there are several occasions when he  
8 has attended by himself. The risk is, is that the Court  
9 would view him as someone who's just a tag-along of  
10 Sickles. But it's important to note that he has attended  
11 by himself as well.

12 He's viewed by David Brian Stone as a full  
13 and active member of the Hutaree, a trusted associate.  
14 He has demonstrated the Hutaree's extremist ideology and  
15 he has often referred to the prosecutor's officer in his  
16 county and the local police force in his county as his  
17 enemies.

18 As I noted, he was present for the 9  
19 January training, yet returned with full knowledge to the  
20 February 20th training.

21 In July of 2009 Ward approached a former  
22 acquaintance of his, a person who had been employed at  
23 the same employer as him, now employed by the FBI, and  
24 inquired as to whether or not he was under investigation  
25 by the FBI.

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1           Of course, the FBI agent didn't respond to  
2           that and the conversation segued into his former employer  
3           -- his former employer and his former employment, and he  
4           indicated that the FBI employee would hear about it soon,  
5           perhaps even read about it.

6           He was arrested for felonious assault,  
7           convicted of the lesser included offense of assault, a  
8           misdemeanor, and received a minimal sentence.

9           Thank you, Your Honor. That concludes the  
10          specifics with respect to this defendant.

11          THE COURT: Thank you.

12          Mr. Seikaly.

13          MR. SEIKALY: Thank you, Judge.

14          Judge, these talking points aren't  
15          evidence. I haven't heard anything that would show that  
16          any of the talking points were proven, especially the one  
17          about him being accepted by Mr. Stone. He is -- at the  
18          time of his arrest, he didn't attempt to flee.

19          He opened the door when he heard the  
20          police, opened the door and followed their commands of  
21          turning around and walking backwards until he was  
22          handcuffed, never resisting in any manner.

23          There were no weapons found when he was  
24          arrested during the search of the house. He has no  
25          history of failing to appear in court. He did have a

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1       misdemeanor back in 1997, over 13 years ago. And he's  
2       had no subsequent incidents of any matter that would --  
3       of a criminal nature. He has no passport. He has no  
4       money to flee. He owns a car. And I think that car is  
5       valued at \$300.

6                   He didn't go to this Kentucky trip. He  
7       did -- allegedly they're saying he went to these  
8       meetings, but since when are meetings of individuals  
9       illegal in the United States? Nothing was planned.

10                   THE COURT: That appears to be  
11       inconsistent with the proffer, but proceed.

12                   MR. SEIKALY: Free speech is allowed in  
13       the United States and it's not prohibited in any manner,  
14       unless, you know, you're in a movie theater and you start  
15       screaming "fire."

16                   People are allowed to associate with  
17       whoever they want in America. There's been nothing  
18       offered to show that he would not be returning to court  
19       for any proceedings. He has a car. It's a short drive  
20       from Huron, Ohio.

21                   The presentence (sic) investigation, they  
22       made a recommendation that he was not a threat. I'm  
23       sorry. That he did not pose a risk of non-appearance.  
24       They spoke to his mother who said that she would be a  
25       third-party custodian. Of course, she didn't want to put



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1 up any money, but I don't -- a lot of people don't want  
2 to do that.

3 So I would think that there's enough  
4 procedures that can be followed to regulate his travel,  
5 regulate where he is and assure his appearance in court.  
6 And I don't believe that he is a threat to the community.

7 Thank you, Judge.

8 THE COURT: Thank you.

9 Mr. Falvey, rebuttal.

10 MR. FALVEY: No, Your Honor.

11 THE COURT: Thank you.

12 I believe that we have now addressed each  
13 of the defendants in the case. Mr. Falvey you indicated  
14 that you wished to argue.

15 UNIDENTIFIED SPEAKER: Your Honor, are you  
16 going to allow eight replies?

17 THE COURT: I will allow very brief  
18 argument and very brief replies.

19 UNIDENTIFIED SPEAKER: Thank you.

20 MR. FALVEY: Your Honor, Mr. Ward's  
21 defense counsel resurrected or continued a theme you've  
22 seen throughout; these are just words, these are -- this  
23 is just training, this is mere association, and certainly  
24 owning guns is not a crime, wearing a uniform is not a  
25 crime, and training is not a crime, even military-style

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1 training.

2 But when persons with dark hearts and evil  
3 intent get together and conspire to oppose by force with  
4 firearms and violence the authority of the United States,  
5 it is a crime.

6 Now, we've mentioned the presumption and  
7 we do take note of that. However, we've presented much  
8 more than that that more than adequately satisfies the  
9 burden of establishing that no condition of release will  
10 ensure the defendants' presence at trial and ensure the  
11 public safety.

12 With respect to dangerousness, the  
13 indictment details some very serious charges, charges  
14 that weren't brought lightly and it was not a bare-bones  
15 indictment, but one that is full of factual information  
16 that was found by the grand jury to have existed and  
17 establishes probable cause that each and every one of  
18 these defendants committed the crimes laid out there.

19 Based upon the information you've heard,  
20 there's a hierarchy obviously, a command structure, if  
21 you will, in the Hutaree that was revealed, and some with  
22 greater leadership responsibilities than others.

23 And they maybe appear to be and some of  
24 the defense counsel have called for you to compare each  
25 of these defendants with the others and conclude, "Well,

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1       that one's not as bad as the others," and perhaps should  
2       merit release for that reason.

3               But when it comes to the safety of the  
4       community, who's more dangerous, the one who directs  
5       another to shoot or the one who pulls the trigger? The  
6       harm comes from the action, not just the command.

7               Some might say, "Cut off the head of the  
8       snake and the rest of the snake will wither and die."  
9       But as you well know, Your Honor, any effective fighting  
10      force requires not just leaders, but subordinates capable  
11      of following those orders, and subordinates who will step  
12      up to the plate, and especially when one of their leaders  
13      falls, and assume command of the organization.

14              And that's exactly what we saw here. When  
15      all of those were arrested, Josh Stone stepped up to the  
16      plate and took command of the organization, took charge  
17      of it.

18              Mr. Waterstreet detailed the acts he took  
19      that were consistent with the Hutaree plan for engaging  
20      law enforcement, retreating to the rally point, gathering  
21      weapons, et cetera. And his defense counsel noted,  
22      "Well, he surrendered and he surrendered peacefully."  
23      And other defense counsel have noted, "My client  
24      surrendered and it was peaceful."

25              Yet each and every defendant, Josh Stone

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1 included, surrendered peacefully when they were  
2 encountered with overwhelming law enforcement presence.  
3 That's it.

4 It's important to note that the indictment  
5 -- and this still goes to dangerousness, Your Honor, the  
6 indictment indicates that they conspired not only amongst  
7 themselves, but with others. Thus the release of any of  
8 them allows them the opportunity to regroup, to regroup  
9 with their fears against law enforcement now realized,  
10 committed to this time no one getting a drop on them, and  
11 obviously taking measures to make sure that it doesn't  
12 happen again that they're caught.

13 Finally, it's important to remember that  
14 the law separately punishes conspiracy. And it does so  
15 because concerted action is particularly dangerous.

16 Moreover, the law doesn't require that the  
17 acts be completed. The conspiracy itself is a separate  
18 crime. And although it's the government's position that  
19 seditious conspiracy requires no overt acts, the  
20 government has pled a multitude of overt acts.

21 With respect to flight risk, with all due  
22 respect to pretrial services, the government believes  
23 that all the defendants are flight risks. The serious  
24 nature of these charges create an incentive to flee  
25 rather than face prosecution.

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1           Each of the defendants is facing life in  
2           prison. A quick examination of the sentencing guidelines  
3           reveals that almost the best case scenario is that they  
4           would be facing a 42-level guideline calculation. And  
5           that guideline calculation, one short of the top of the  
6           list, which is 43, is 30 years to life.

7           They have nothing to lose at this point,  
8           Your Honor, other than to flee. All have the survivalist  
9           mentality that caused the pretrial services to recommend  
10          that Mr. Clough be detained as a flight risk.

11          You've heard the evidence of that. The  
12          conspiracy itself --

13                 UNIDENTIFIED SPEAKER: Your Honor, I  
14          thought these were going to be brief remarks.

15                 THE COURT: How long is this going to be,  
16          Mr. Falvey? I've heard the presentation.

17                 MR. FALVEY: Twenty more seconds, Your  
18          Honor.

19                 The conspiracy itself, the information  
20          proffered by Mr. Waterstreet, demonstrates a disregard  
21          for lawful authority and raises a serious question of  
22          whether or not the defendants would comply with any  
23          assurances that they give or any assurances that the  
24          Court demands that they be present for trial.

25                 Thank you, Your Honor.

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1 THE COURT: Thank you.

2 Mr. Swor, on behalf of Brian David Stone.

3 MR. SWOR: Yes, Your Honor.

4 You know, the word that got swallowed up  
5 by all the other words is "if." If you believe the  
6 government, if you believe the government's spin, if you  
7 believe the government's fear.

8 It's interesting that the government is  
9 fearful of the citizens and it poo-poops the fact that  
10 citizens are fearful of the government.

11 I mean, they have this fear of the police.  
12 Our country was founded on a fear of government. The  
13 federalist form of government that we have is  
14 specifically that, to ensure and protect against  
15 government encroachment. We called them statist, those  
16 that think that government can do no wrong.

17 These other comments, these great spin  
18 comments, "survivalist mentality," whatever that means,  
19 "dark hearts and evil intent."

20 We haven't seen anything from this proffer  
21 that tells us that Mr. Stone had any evil intent. They  
22 may not like the fact that he dislikes the government,  
23 they may not like the fact that -- another spin word --  
24 his "manifesto," was that he didn't trust the government  
25 or that he wanted to protect American values against what

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1 he saw was encroachment. They were training. They were  
2 preparing to respond, not to take concerted action.

3 There's no evidence from this proffer that  
4 these people intended to violate the law. That's what --  
5 your danger to the community argument.

6 And the idea that they can blithely -- or  
7 that the Court should blithely, without any evidence,  
8 ignore the recommendation of pretrial services that Mr.  
9 Stone is not a risk of flight, it is -- it just asks the  
10 Court to violate the law.

11 You know, this is a detailed indictment.  
12 There have been a lot of detailed indictments found by  
13 the grand jury. I mean, these are all great buzz words,  
14 but the fact is there has been no evidence.

15 And as Mr. Thomas noted in this memorandum  
16 regarding the form of the hearing -- and the statute  
17 itself says that the hearing has to be based on evidence.  
18 And we have a right of confrontation in  
19 cross-examination. It may be limited, but we have that  
20 right. We have been deprived of that right because the  
21 government has chosen to proceed without any witnesses.  
22 We were able to talk about the exhibits simply because we  
23 had them, but we weren't able to cross-examine them  
24 further.

25 Safety of the community, that there was

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1 people who directed and people acted. I presume that  
2 they're trying to say that Mr. Stone was one of the  
3 directors. But if you look through the proffer given by  
4 the government, there was no direction given by Mr.  
5 Stone. There was talk. There was conversation, heated,  
6 angry, focused, but there certainly was no direction.

7 Then they poo-poo the idea that Mr. Stone  
8 surrendered peacefully. They say only because he was  
9 faced with overwhelming opposition. Well, there's no  
10 evidence of that. The fact is, he was confronted by law  
11 enforcement and he did surrender peacefully.

12 You have a 45-year-old man who is married,  
13 who is employed, who has lived here his entire life. All  
14 of his contacts are within the State of the Michigan,  
15 within this district. You can't have any more  
16 relationship to this district that would support a  
17 finding that he's no risk of flight.

18 There is nothing he is alleged to have  
19 done other than give street signs to an undercover police  
20 officer that could be considered any action that could  
21 somewhere down the road lead to a danger to the  
22 community.

23 Even the pretrial services report that  
24 says because of the charges, he may be a risk of flight.  
25 There are no facts suggested in the pretrial services



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1 report that say to the Court he is a danger to the  
2 community. Nothing that you were told by way of facts  
3 gives any factual basis for this Court to make an  
4 independent finding that he's a danger to the community.

5 The government has used all kinds of fancy  
6 words and spins and everything else, but the bottom line  
7 is, there are no facts which suggest or establish that  
8 Mr. Stone is a danger to the community such that there  
9 are no conditions that can be fashioned.

10 Conditions can be fashioned regarding  
11 residence, regarding employment, regarding reporting.  
12 There are people who get released from this district who  
13 have guidelines -- guidelines of -- you know, the Supreme  
14 Court has already said the guidelines are out the window  
15 because they can be manipulated.

16 For that reason, Your Honor, we would ask  
17 the Court to deny the government's request for detention  
18 and to fashion conditions of release that would allow Mr.  
19 Stone to help assist counsel and prepare for trial in a  
20 non-custodial situation.

21 THE COURT: Thank you.

22 Mr. Helfrick for David Brian Stone, Jr.

23 MR. HELFRICK: Yeah, and I will be brief,  
24 Your Honor.

25 And I will say that, you know, in the

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1 finest tradition, the government is going forward as  
2 would Richard Convertino in playing hide-the-ball.

3 The government has made the argument that  
4 the government has presented more than enough. The  
5 government hasn't presented anything to this Court, not  
6 one witness.

7 And I understand that this Court has now  
8 ruled that they can go forward by way of proffer. The  
9 fact is, if they're going to go forward by way of  
10 proffer, then this Court should not afford it very much  
11 weight at all.

12 Thank you.

13 THE COURT: Thank you.

14 Mr. Thomas is absent.

15 Mr. Rataj, on behalf of Tina Mae Stone.

16 MR. RATAJ: Yeah, just a couple of quick,  
17 brief comments, Judge, in line with what Mr. Helfrick  
18 said.

19 Judge, let me start out my comments by  
20 pointing out to the Court, as we all know as being  
21 lawyers involved in these proceedings, that there is a  
22 strong presumption of innocence that the Court must take  
23 into consideration.

24 Just because the government has come in  
25 here with allegations of a serious nature does not make

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1       -- does not make my client, for example, guilty. They  
2       have to bring in facts. They have brought in absolutely  
3       no facts in this case to suggest that my client is a  
4       danger.

5               Now, we've talked about that there are --  
6       or we've talked about the presentence -- or the pretrial  
7       report, excuse me. And I pointed out that both parents,  
8       my client's parents are prepared to act as third-party  
9       custodians.

10              Certainly a set of conditions can be  
11      fashioned to protect the government's interest in this  
12      case, which is the protection of the public.

13              For example, Judge, stringent reporting  
14      requirements, no use of the internet, no contact with any  
15      of the individuals involved in this case, a tether, et  
16      cetera.

17              Your Honor's been up there for a long time  
18      and you have a lot of wisdom. And I believe that you can  
19      fashion a set of circumstances, which, like I said, would  
20      protect the government's interests.

21              I think what's dangerous, and just to pick  
22      up on what Mr. Swor had argued to Your Honor, is that  
23      they're using words, spin words, okay, to create this  
24      aura that, you know, these people, okay, were going to  
25      take down the United States government with no facts to

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1 support it other than what we've heard from the U.S.  
2 attorneys. And you cannot just use the words of the U.S.  
3 attorneys without any facts to support this argument that  
4 these people should be detained.

5 I think that what's dangerous is that the  
6 government is attempting to prosecute people who have  
7 asserted their First and Second Amendment rights. And  
8 what's dangerous is that my client is being prosecuted  
9 for potentially having a critical view of the government,  
10 which is not illegal, Judge.

11 So again, I would ask you to fashion a set  
12 of circumstances that will allow Mrs. Stone to be  
13 released so she can assist me more easily with her  
14 defense.

15 Thank you.

16 THE COURT: Thank you.

17 Mr. Roberts on behalf of Joshua Clough.

18 MR. ROBERTS: Thank you very much, Your  
19 Honor. I also will be brief.

20 You are certainly aware and we all  
21 appreciate that you're going to have to find individual  
22 specific findings of fact with regard to both factors;  
23 dangerousness and risk of flight.

24 With regard to Mr. Clough, again, I remind  
25 the Court that through the proffer yesterday, we heard

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1 nothing about acts of violence committed by Mr. Clough.  
2 And we can't forget the fact that despite what we heard  
3 in terms of presentation by proffer, there's no  
4 minimization that can be placed to the idea that when my  
5 client was arrested he offered no resistance.

6 In fact, if he were to be faced with this  
7 decision and fully embracing whatever this credo or motto  
8 or manifestation is that government counsel has referred  
9 to that there would have been a shoot-out.

10 There was no engagement. There was no  
11 hesitance, as I've understood it, in terms of his  
12 peacefully surrendering. He had no weapon on his person,  
13 nothing that he could have used with him.

14 And the fact of the matter is, in terms of  
15 his potential risk of flight, I would remind the Court  
16 that Mr. Clough did not engage in hiding out, nor did he  
17 engage in dropping out from society.

18 He was living open and notoriously with  
19 his parents as a 28-year-old blemish-free individual, in  
20 terms of having no prior untoward contact with the  
21 criminal justice system.

22 And he had a job. As a matter of fact,  
23 his pretrial report reflects it was a security job at a  
24 mall. He probably doesn't have that anymore. There's no  
25 one here. I'm not suggesting that I've got the mall

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1 people here take him -- ready to take him back. But the  
2 point being he was not trying to live off the land, nor  
3 under the radar as the suggestion may have been strongly  
4 made.

5 When it comes to your individualized and  
6 particularized findings, I think you will be hard-pressed  
7 in terms of any indication that you could hang as an  
8 underpinning to a ruling -- excuse me, that you could  
9 support that he would be a risk of flight.

10 And considering the fact that we're in the  
11 digitalized age and there are not only electronic  
12 monitoring devices available, there's also GPS that can  
13 be utilized, the government has no problem in most  
14 circumstances finding individuals and allowing them the  
15 largess of being released on large but unsecured bonds.

16 I understand in this circumstance their  
17 position, but it shouldn't detract what normally would be  
18 a litany of positive features in my client's unblemished  
19 past.

20 And I would ask you to carefully consider  
21 and render an opinion that would allow a combination of  
22 conditions so that I don't have to be preparing this  
23 matter with my client housed in the St. Clair County Jail  
24 two hours round -- one way from my office, in order to  
25 accomplish a defense.

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1 Thank you.

2 THE COURT: Thank you.

3 Mr. Scharg is not present.

4 Mr. or Ms. Satawa on behalf of Mr. Meeks.

5 MS. SATAWA: Your Honor, on behalf of Mr.  
6 Meeks, we -- there was discussion from the government  
7 about harm from action. There is no action or any facts  
8 that can be pointed to that show that there was any  
9 intent for action. Free speech is that, free speech.

10 I would also point to this harm from  
11 action and ask the Court or call the Court's attention to  
12 an article in the Ann Arbor News on March 25th, 2010,  
13 where the Bridgewater Township officials asked the  
14 Hutaree, asked this supposed dangerous group to assist  
15 them in finding two missing township citizens. I have  
16 the article available for the Court if you wish to see.

17 In addition to that, Your Honor, I would  
18 like to just make a correction. The government stated  
19 that Mr. Meeks didn't -- that his parents didn't know  
20 where he lived and they made some assertions that perhaps  
21 he didn't have stable housing.

22 It's interesting that they say that, since  
23 Mr. Meeks was actually taken into custody, gave his home  
24 address to the agents, and still they didn't go to the  
25 actual home address and search that residence until

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1       yesterday while we were in court. They went to his  
2       parents' house and searched that residence after he was  
3       in custody, after they already knew where he actually  
4       lived.

5               So he does have solid ties. He's lived in  
6       that residence for seven years. He's been a lifelong  
7       resident of Michigan, with the exception of his military  
8       service. And he is a person who is unequivocally,  
9       according to the pretrial services report, not a flight  
10      risk.

11             Lastly, Your Honor, and I know that some  
12      of my brother counsel have already stated that there are  
13      just no facts here that can be relied upon to conclude  
14      that the presumption wins when we balance the scales here  
15      of safety of the community.

16             If this group was so dangerous and the  
17      facts are so good, then where were the witnesses?  
18      Where's the documentation? There's all this reference to  
19      this You-Tube video. Well, my client doesn't even have  
20      internet access, so he never had access to the You-Tube  
21      video. He never got the calls to action. He never got  
22      the flashes for everyone to come in.

23             As I've been telling you for now two days,  
24      Mr. Meeks is different. Mr. Meeks' involvement and this  
25      so-called survivalist mentality that the government keeps



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1       talking about, it stems from being trained in our  
2       military by the United States government.

3               He has no intent to violate the law. He  
4       was assembling with a group who looked for missing  
5       people, helped other governments, and happened to have a  
6       lot of legal weapons. The weapons the government tells  
7       you about that they found in his home, every single one  
8       was registered and lawfully possessed. It was not there  
9       because he had some great big plot to overthrow the  
10      government.

11             So I would ask you to allow Mr. Meeks to  
12      be released. Thank you, Your Honor.

13             THE COURT: Thank you.

14             Mr. Seikaly, on behalf of Mr. Ward.

15             MR. SEIKALY: Briefly, Judge.

16             There have been no facts that show that  
17      Mr. Ward is a danger to the community. His mother, as a  
18      matter of fact, is a corrections officer for the State of  
19      Ohio at one of their correctional facilities. And she  
20      has indicated that Mr. Ward could reside at her place. I  
21      don't think a corrections officer for the State of Ohio  
22      would allow anything to impede the justice system.

23             These gentlemen seem to be exercising  
24      their First and Second Amendment rights, established by  
25      our constitution an awfully long time ago. I don't think

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1 he's a flight risk. Probation -- or pretrial services,  
2 when they interviewed, didn't think he was a flight of  
3 risk -- or a risk of flight.

4 He -- you could form many conditions that  
5 allow a release. And like one of the attorneys  
6 indicated, it's about two hours from here to the lock-up  
7 facility being utilized. It's hard to go up and visit  
8 these guys. It's a lot easier if they're out, come visit  
9 us when they want. Then we can prepare a defense.

10 My main thing to the Court is that we've  
11 seen absolutely no facts other than what the prosecutor  
12 is saying, to show that anything was done other than a  
13 bunch of meetings and a bunch of camping exhibitions.

14 I think that the Court could formulate a  
15 -- conditions of release that would satisfy everybody.

16 Thank you, Judge.

17 THE COURT: Thank you.

18 For the record, I will permit Mr. Thomas  
19 and Mr. Scharg on behalf of Joshua Matthew Stone and  
20 Christopher T. Sickles to review the argument Mr. Falvey  
21 made by reviewing the record, and I will allow them the  
22 opportunity to make an argument on the record as well.

23 Mr. Falvey, does the government have a  
24 brief rebuttal?

25 MR. FALVEY: It does not, Your Honor.

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1 THE COURT: Very well.

2 I will take these matters under  
3 advisement. I have many pages of notes. There have been  
4 many hours of presentation and argument. I will reduce  
5 my findings to a written order as to each defendant. I  
6 will unlikely complete that process today.

7 As I am leaving next week, I will complete  
8 it prior to close of business tomorrow. Counsel will be  
9 notified.

10 And for the record, all counsel are  
11 advised, as they already know, that my order is  
12 appealable de novo to the district judge assigned to this  
13 case.

14 MR. HELFRICK: Your Honor, in the event  
15 you're not going to be completing this today, will the  
16 defendants be brought back to the building tomorrow,  
17 because in the event that you do order some or any of  
18 them to be released, so that they're released for, you  
19 know, Easter Sunday?

20 THE COURT: Yes, I will ask that the  
21 Marshal return all of the defendants to court tomorrow in  
22 the event that I determine that bond is appropriate or  
23 for purposes of appeal should I determine the opposite.

24 MR. HELFRICK: Thank you, Your Honor.

25 MR. RATAJ: Your Honor, if I may? Does

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1       that mean that we should be here at one o'clock tomorrow?  
2       No?

3                   THE COURT: It is -- hopefully you will  
4       know beforehand what my disposition is and I'll have to  
5       leave that to your discretion.

6                   MR. RATAJ: Fair enough. Thank you.

7                   THE COURT: Mr. Swor?

8                   MR. SWOR: Apparently -- although we've  
9       all filed appearances, not all of us have been recognized  
10      by the ECF system. Is there something we can do to  
11      assist the Court in that process?

12                  THE COURT: Mr. Swor is not on the EM-ECF  
13      system?

14                  DEPUTY COURT CLERK: You filed your  
15      appearance yesterday?

16                  MR. SWOR: Yeah.

17                  DEPUTY COURT CLERK: My bet is by the end  
18      of the day it will be on there.

19                  MR. WATERSTREET: Will that be all, Your  
20      Honor?

21                  THE COURT: Yes. Thank you, all.

22                               (Court in recess at 2:21 p.m.)

23                               \*   \*   \*

*U.S.A. v. Stone, et al.*

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**C E R T I F I C A T I O N**

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I certify that the foregoing is a correct transcript from the digital sound recording of the proceedings in the above-entitled matter and has been prepared by me or under my direction.

\s\Marie J. Metcalf

04/08/10

Marie J. Metcalf, CVR, CM

(Date)